

**H.R. 4591, AS REPORTED BY THE SUBCOMMITTEE
ON ENVIRONMENT AND HAZARDOUS MATERIALS**

on May 18, 2006

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the “Stockholm and Rot-
3 terdam Toxics Treaty Act of 2005”.

**4 SEC. 2. IMPLEMENTATION OF INTERNATIONAL AGREE-
5 MENTS.**

6 The Toxic Substances Control Act (15 U.S.C. 2601
7 et seq.) is amended by adding at the end the following:

**8 “TITLE V—IMPLEMENTATION OF
9 INTERNATIONAL AGREEMENTS**

10 “SEC. 501. DEFINITIONS.

11 “In this title:

12 “(1) CONFERENCE.—The term ‘Conference’
13 means the Conference of the Parties established by
14 paragraph 1 of Article 19 of the POPs Convention.

15 “(2) CONFERENCE LISTING DECISION.—The
16 term ‘Conference listing decision’ means a decision
17 by the Conference to approve an amendment to list
18 a chemical substance or mixture in Annex A or B
19 to the POPs Convention.



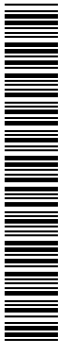
1 “(3) EXECUTIVE BODY.—The term ‘Executive
2 Body’ means the Executive Body established by Ar-
3 ticle 10 of the LRTAP Convention.

4 “(4) EXECUTIVE BODY DECISION 1998/2.—The
5 term ‘Executive Body Decision 1998/2’ means the
6 decision of the Executive Body titled ‘Executive
7 Body Decision 1998/2 on Information to Be Sub-
8 mitted and the Procedure for Adding Substances to
9 Annexes I, II, or III to the Protocol on Persistent
10 Organic Pollutants’ and any other Executive Body
11 decision done pursuant to Article 14 of the LRTAP
12 POPs Protocol.

13 “(5) LRTAP CONVENTION.—The term
14 ‘LRTAP Convention’ means the Convention on
15 Long-Range Transboundary Air Pollution, done at
16 Geneva on November 13, 1979 (TIAS 10541), and
17 any subsequent amendment to which the United
18 States consents to be bound.

19 “(6) LRTAP POPS CHEMICAL SUBSTANCE OR
20 MIXTURE.—The term ‘LRTAP POPs chemical sub-
21 stance or mixture’ means one of the following chem-
22 ical substances or mixtures, as defined in section 3:

- 23 “(A) Aldrin.
24 “(B) Chlordane.
25 “(C) Chlordecone.



1 “(D) Dichlorodiphenyltrichloroethane
2 (DDT).

3 “(E) Dieldrin.

4 “(F) Endrin.

5 “(G) Hexachlorocyclohexane (HCH).

6 “(H) Heptachlor.

7 “(I) Hexachlorobenzene.

8 “(J) Hexabromobiphenyl.

9 “(K) Mirex.

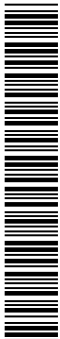
10 “(L) Polychlorinated biphenyls (PCBs).

11 “(M) Toxaphene.

12 “(N) Any chemical substance or mixture
13 that is listed on Annex I or Annex II of the
14 LRTAP POPs Protocol.

15 “(7) LRTAP POPS PROTOCOL.—The term
16 ‘LRTAP POPs Protocol’ means the Protocol on Per-
17 sistent Organic Pollutants to the LRTAP Conven-
18 tion, done at Aarhus on June 24, 1998, and any
19 subsequent amendment to which the United States
20 consents to be bound.

21 “(8) PIC CONVENTION.—The term ‘PIC Con-
22 vention’ means the Rotterdam Convention on the
23 Prior Informed Consent Procedure for Certain Haz-
24 ardous Chemicals and Pesticides in International
25 Trade, done at Rotterdam on September 10, 1998,



1 and any subsequent amendment to which the United
2 States consents to be bound.

3 “(9) POPs CHEMICAL SUBSTANCE OR MIX-
4 TURE.—The term ‘POPs chemical substance or mix-
5 ture’ means one of the following chemical substances
6 or mixtures, as defined in section 3:

7 “(A) Aldrin.

8 “(B) Chlordane.

9 “(C) Dichlorodiphenyltrichloroethane
10 (DDT).

11 “(D) Dieldrin.

12 “(E) Endrin.

13 “(F) Heptachlor.

14 “(G) Hexachlorobenzene.

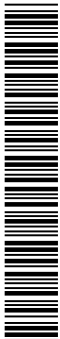
15 “(H) Mirex.

16 “(I) Polychlorinated biphenyls (PCBs).

17 “(J) Toxaphene.

18 “(K) Any other chemical substance or mix-
19 ture that is listed in Annex A or B to the POPs
20 Convention.

21 “(10) POPs CONVENTION.—The term ‘POPs
22 Convention’ means the Stockholm Convention on
23 Persistent Organic Pollutants, done at Stockholm on
24 May 22, 2001, and any subsequent amendment to
25 which the United States consents to be bound.



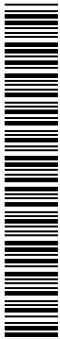
1 “(11) POPs REVIEW COMMITTEE.—The term
2 ‘POPs Review Committee’ means the Persistent Or-
3 ganic Pollutants Review Committee established
4 under paragraph 6 of Article 19 of the POPs Con-
5 vention.

6 **“SEC. 502. IMPLEMENTATION OF POPs CONVENTION AND**
7 **LRTAP POPs PROTOCOL.**

8 “(a) PROHIBITION.—Except as otherwise provided in
9 this title, no person may manufacture, process, distribute
10 in commerce for export, use, or dispose of a POPs chem-
11 ical substance or mixture listed in section 501(9) (A), (B),
12 (C), (D), (E), (F), (G), (H), or (J), or a LRTAP POPs
13 chemical substance or mixture listed in section 501(6)(A),
14 (B), (C), (D), (E), (F), (G), (H), (I), (J), (K), or (M).

15 “(b) EXCEPTIONS.—The Administrator may by rule
16 provide for exceptions to the prohibition under subsection
17 (a) where such exceptions are not inconsistent with the
18 obligations of the United States under the POPs Conven-
19 tion or the LRTAP POPs Protocol.

20 “(c) PCBs.—The Administrator may issue or amend
21 rules for the purpose of United States compliance with the
22 provisions of the POPs Convention or the LRTAP POPs
23 Protocol related to polychlorinated biphenyls through rules
24 duly promulgated through notice and comment rule-
25 making under section 6(e) or other applicable Federal law.



1 **“SEC. 503. NOTICE, INFORMATION, RULEMAKING, AND EX-**
2 **EMPTIONS.**

3 “(a) NOTICE THAT SCREENING CRITERIA ARE MET
4 OR AFTER RISK PROFILE SUBMITTED.—

5 “(1) APPLICABILITY.—This subsection applies
6 if—

7 “(A) the POPs Review Committee decides
8 under paragraph 4(a) of Article 8 of the POPs
9 Convention, that a proposal for listing a chem-
10 ical substance or mixture in Annex A, B, or C
11 to the POPs Convention fulfills the screening
12 criteria specified in Annex D to the POPs Con-
13 vention;

14 “(B) the Conference decides under para-
15 graph 5 of Article 8 of the POPs Convention,
16 that such a proposal shall proceed; or

17 “(C) if a party to the LRTAP POPs Pro-
18 tocol submits to the Executive Body a risk pro-
19 file in support of a proposal to list a chemical
20 substance or mixture in Annex I, II, or III to
21 the LRTAP POPs Protocol.

22 “(2) REQUIREMENT.—Not later than 60 days
23 after the date of an action described in paragraph
24 (1), the Administrator shall—

25 “(A) publish in the Federal Register a no-
26 tice of the action; and



1 “(B) provide opportunity for public com-
2 ment on the proposal or risk profile described
3 in paragraph (1).

4 “(3) REQUIRED ELEMENTS OF NOTICE.—A no-
5 tice under paragraph (2) shall include—

6 “(A) the identity of the chemical substance
7 or mixture that is the subject of the proposal or
8 risk profile described in paragraph (1);

9 “(B) a summary of the process, under the
10 POPs Convention or the LRTAP POPs Pro-
11 tocol, for the consideration of the action that
12 was taken, including criteria applied in that
13 process;

14 “(C) a summary of the POPs Review Com-
15 mittee or Conference decisions to date on the
16 proposed listing and the basis for the decisions;
17 and

18 “(D) a summary of how the chemical sub-
19 stance or mixture that is the subject of the ac-
20 tion is currently regulated under the laws of the
21 United States.

22 “(b) NOTICE THAT FURTHER CONSIDERATION OF
23 CHEMICAL SUBSTANCE OR MIXTURE IS WARRANTED.—

24 “(1) APPLICABILITY.—This subsection applies
25 if—



1 “(A) the POPs Review Committee decides,
2 under paragraph 7(a) of Article 8 of the POPs
3 Convention, that global action is warranted with
4 respect to a chemical substance or mixture that
5 is the subject of a proposal to list under an
6 Annex to the POPs Convention;

7 “(B) the Conference decides, under para-
8 graph 8 of that Article, that such a proposal
9 shall proceed; or

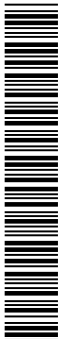
10 “(C) the Executive Body determines pur-
11 suant to paragraph 2 of Executive Body Deci-
12 sion 1998/2 that further consideration of a
13 chemical substance or mixture is warranted,
14 and therefore requires one or more technical re-
15 views of the proposal.

16 “(2) NOTICE.—Not later than 60 days after the
17 date on which a decision or determination is made
18 under paragraph (1), the Administrator shall—

19 “(A) publish in the Federal Register a no-
20 tice of the decision or determination; and

21 “(B) provide opportunity for public com-
22 ment on the decision or determination.

23 “(3) REQUIRED ELEMENTS OF NOTICE.—A no-
24 tice under paragraph (2) shall—



1 “(A) identify the chemical substance or
2 mixture that is the subject of the proposal;

3 “(B) include a summary of—

4 “(i) the POPs Review Committee or
5 Conference decision, and the basis for the
6 decision, in the case of a decision described
7 in paragraph (1)(A) or (B);

8 “(ii) the Executive Body determina-
9 tion, and basis for the determination, in
10 the case of a determination described in
11 paragraph (1)(C); and

12 “(iii) the comments received by the
13 Administrator in response to the Federal
14 Register notice published pursuant to sub-
15 section (a)(2)(A); and

16 “(C) request, for a chemical substance or
17 mixture proposed for listing on Annex A or B
18 of the POPs Convention or Annex I or II of the
19 LRTAP POPs Protocol, information and public
20 comment on any present or anticipated produc-
21 tion or use of the chemical substance or mix-
22 ture, including any explanation or documenta-
23 tion of items relating thereto that the United
24 States may use to—



1 “(i) seek an exemption or acceptable
2 purpose under the POPs Convention; or

3 “(ii) allow a restricted use or condi-
4 tion under the LRTAP POPs Protocol.

5 “(c) NOTICE OF CONFERENCE RECOMMENDATION
6 CONCERNING A LISTING OR COMPLETION OF A TECH-
7 NICAL REVIEW.—

8 “(1) APPLICABILITY.—This subsection
9 applies—

10 “(A) if the POPs Review Committee rec-
11 ommends, under paragraph 9 of Article 8 of the
12 POPs Convention, that the Conference consider
13 making a Conference listing decision with re-
14 spect to a chemical substance or mixture in ac-
15 cordance with a proposal; or

16 “(B) after completion of a technical review
17 of the proposal to list a chemical substance or
18 mixture on an Annex of the LRTAP POPs Pro-
19 tocol.

20 “(2) NOTICE.—Not later than 60 days after the
21 date on which a recommendation under paragraph
22 (1)(A) is made or a technical review described in
23 paragraph (1)(B) is completed, the Administrator
24 shall—



1 “(A) publish in the Federal Register a no-
2 tice of the recommendation or completion of the
3 technical review; and

4 “(B) provide opportunity for public com-
5 ment on the recommendation or the technical
6 review.

7 “(3) REQUIRED ELEMENTS.—A notice under
8 paragraph (2) shall include a summary of—

9 “(A) the POPs Review Committee rec-
10 ommendation, and the basis for the rec-
11 ommendation, or of the technical review;

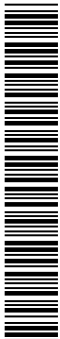
12 “(B) any control measures for the chemical
13 substance or mixture that are proposed by the
14 POPs Review Committee or in the technical re-
15 view;

16 “(C) any control measures for the chemical
17 substance or mixture that exist under the laws
18 of the United States; and

19 “(D) any public comments received by the
20 Administrator in response to the Federal Reg-
21 ister notice published pursuant to subsection
22 (b)(2).

23 “(d) PROVISION OF INFORMATION.—

24 “(1) UNDER POPS CONVENTION.—The Admin-
25 istrator, where relevant, by general order issued in



1 the Federal Register may require any person, or ap-
2 propriate categories of persons, that manufactures,
3 processes, distributes in commerce for export, or dis-
4 poses of a chemical substance or mixture that is the
5 subject of a notice under subsection (a), (b), or (c)
6 to provide information, to the extent such informa-
7 tion is known or readily obtainable, on—

8 “(A) the annual quantity of the chemical
9 substance or mixture that the person manufac-
10 tures and the locations of the manufacture;

11 “(B) the uses of the chemical substance or
12 mixture;

13 “(C) the approximate annual quantity of
14 the chemical substance or mixture that the per-
15 son releases into the environment; and

16 “(D) other information or monitoring data
17 relating to the chemical substance or mixture
18 that is consistent with the information specified
19 in—

20 “(i) paragraph 1 of Annex D;

21 “(ii) subsections (b) through (e) of
22 Annex E; and

23 “(iii) Annex F,
24 to the POPs Convention.



1 “(2) UNDER LRTAP POPS PROTOCOL.—The Ad-
2 ministrator, where relevant, by general order issued
3 in the Federal Register, may require any person, or
4 appropriate categories of persons, that manufac-
5 tures, processes, distributes in commerce for export,
6 or disposes of a chemical substance or mixture that
7 is the subject of a notice under subsection (a), (b),
8 or (c) to provide information, to the extent such in-
9 formation is known or readily obtainable, on—

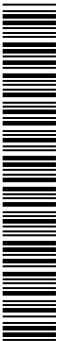
10 “(A) the annual quantity of the chemical
11 substance or mixture that the person manufac-
12 tures and the locations of the manufacture;

13 “(B) the uses of the chemical substance or
14 mixture;

15 “(C) the approximate annual quantity of
16 the chemical substance or mixture that the per-
17 son releases into the environment;

18 “(D) environmental monitoring data relat-
19 ing to the chemical substance or mixture (in
20 areas distant from sources);

21 “(E) information on alternatives to the
22 uses of the chemical substance or mixture and
23 the efficacy of each alternative;



1 “(F) information on any known adverse
2 environmental or human health effects associ-
3 ated with each such alternative; and

4 “(G) other information or monitoring data
5 relating to the chemical substance or mixture
6 that is consistent with information specified in
7 Executive Body Decision 1998/2 for inclusion in
8 the risk profile or technical review.

9 “(3) UPDATING OF INFORMATION.—

10 “(A) VOLUNTARY UPDATES.—Any person
11 who submits information under paragraph (1)
12 or (2) may voluntarily update the information
13 at any time.

14 “(B) REQUIRED UPDATES.—If the Admin-
15 istrator determines, with the concurrence of the
16 Secretary of State, that an update of informa-
17 tion submitted under paragraph (1) or (2) is
18 necessary, the Administrator may, through a
19 general order published in the Federal Register,
20 require all persons that are required to submit
21 the information to update the information.

22 “(C) NEW INFORMATION.—As part of a
23 general order published under subparagraph
24 (B), the Administrator may require any person
25 who, after the date specified in the general



1 order issued pursuant to paragraph (1) or (2)
2 by which persons are required to submit infor-
3 mation, commences manufacturing, processing,
4 distributing in commerce for export, or dis-
5 posing of a chemical substance or mixture sub-
6 ject to the requirements in paragraph (1) or
7 (2), to submit the information required to be
8 submitted in the general order issued pursuant
9 to paragraph (1) or (2).

10 “(e) ACTION BY THE ADMINISTRATOR UPON NEW
11 LISTING OR OTHER CHANGES.—

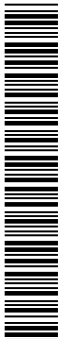
12 “(1) RULEMAKING.—

13 “(A) AUTHORITY.—If either—

14 “(i) the Conference decides to amend
15 Annex A or B of the POPs Convention to
16 list an additional chemical substance or
17 mixture; or

18 “(ii) the parties to the LRTAP POPs
19 Protocol decide to amend Annex I or II to
20 the LRTAP POPs Protocol to list an addi-
21 tional chemical substance or mixture,

22 the Administrator may issue rules to prohibit or
23 restrict the manufacture, processing, distribu-
24 tion in commerce for export, use, or disposal of
25 the additional chemical substance or mixture to



1 the extent necessary to protect human health
2 and the environment in a manner that achieves
3 a reasonable balance of social, environmental,
4 and economic costs and benefits. The Adminis-
5 trator may modify rules issued under this para-
6 graph, consistent with the requirements of this
7 paragraph.

8 “(B) SCOPE OF RULEMAKING.—The Ad-
9 ministrator may issue rules under subparagraph
10 (A) only to meet, in whole or in part, the obli-
11 gations of the United States under the POPs
12 Convention or LRTAP POPs Protocol if the
13 United States were to consent to be bound for
14 that applicable amendment referred to in sub-
15 paragraph (A).

16 “(C) EFFECTIVE DATE FOR RULES.—No
17 rule issued under this paragraph shall take ef-
18 fect until the United States has consented to be
19 bound by the amendment agreed to by a deci-
20 sion under subparagraph (A)(i) or (ii).

21 “(2) CONSIDERATIONS.—In taking an action
22 under paragraph (1), the Administrator shall
23 consider—

24 “(A) a scientific assessment of the effects
25 of such chemical substance or mixture on health

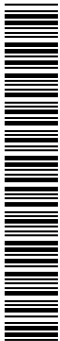


1 and the magnitude and impact of the exposure
2 of human beings to such chemical substance or
3 mixture;

4 “(B) a scientific assessment of the effects
5 of such chemical substance or mixture on the
6 environment and the magnitude and impact of
7 the exposure of the environment to such chem-
8 ical substance or mixture;

9 “(C) the benefits of such chemical sub-
10 stance or mixture for various uses and the
11 availability, risks, and economic consequences of
12 substitutes for such uses, considering factors
13 described in subparagraph (D);

14 “(D) the reasonably ascertainable economic
15 consequences of the proposed prohibition or
16 other regulation, after consideration of the ef-
17 fect on the national economy, small business,
18 technological innovation, the environment, and
19 public health, including the degree to which the
20 manufacture, processing, distribution in com-
21 merce for export, use, or disposal of the chem-
22 ical substance or mixture is necessary to pre-
23 vent significant harm to an important sector of
24 the economy; and



1 “(E) national and international con-
2 sequences that are likely to arise as a result of
3 domestic regulatory action (including the pos-
4 sible consequences of using alternative products
5 or processes).

6 “(3) ADDITIONAL CONSIDERATIONS.—The Ad-
7 ministrators may also consider—

8 “(A) with regard to chemical substances or
9 mixtures listed in Annex A or B of the POPs
10 Convention—

11 “(i) recommendations of the POPs
12 Review Committee under paragraph 9 of
13 Article 8 of the POPs Convention;

14 “(ii) the Conference listing decision;
15 and

16 “(iii) any information that the United
17 States submits to the POPs Review Com-
18 mittee or to the Conference pursuant to
19 Article 8 of the POPs Convention; and

20 “(B) with regard to chemical substances or
21 mixtures listed in Annex I or II of the LRTAP
22 POPs Protocol—

23 “(i) any technical review conducted
24 pursuant to paragraph 2 of the Executive
25 Body Decision 1998/2;



1 “(ii) the LRTAP POPs Protocol list-
2 ing decision; and

3 “(iii) any information that the United
4 States submitted to the Executive Body, or
5 a subsidiary of the Executive Body, in re-
6 lation to such a technical review or listing
7 decision.

8 “(4) ASSESSMENT OF RISKS OR EFFECTS.—In
9 assessing risks and effects, the Administrator shall
10 use sound and objective scientific practices, and
11 shall determine the weight of the scientific evidence
12 concerning such risks or effects based on the best
13 available scientific information, including peer-re-
14 viewed studies, in the rulemaking record.

15 “(5) COMMENTS AND INFORMATION PART OF
16 RECORD.—The comments and information received
17 in response to notices or orders published pursuant
18 to subsections (a), (b), (c), and (d) shall be part of
19 the record for a rule promulgated pursuant to this
20 subsection.

21 “(f) EXEMPTIONS UNDER POPs CONVENTION.—

22 “(1) USE-SPECIFIC OR ACCEPTABLE PURPOSE
23 EXEMPTIONS.—Prohibitions or restrictions included
24 in rules issued under subsection (e)(1), and the pro-
25 hibitions described in section 502(a), shall not apply



1 to any manufacture, processing, distribution in com-
2 merce for export, use, or disposal of a POPs chem-
3 ical substance or mixture that the Administrator de-
4 termines, through final rules promulgated under
5 subsection (e)(1), with the concurrence of the Sec-
6 retary of State—

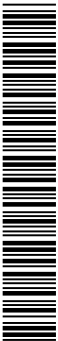
7 “(A) is consistent with—

8 “(i) a production or use-specific ex-
9 emption available to the United States
10 under Annex A or B to the POPs Conven-
11 tion; or

12 “(ii) an acceptable purpose applicable
13 to the United States under Annex B to the
14 POPs Convention; and

15 “(B) would, as a result, not prevent the
16 United States from complying with obligations
17 or potential obligations of the United States
18 with respect to that chemical substance or mix-
19 ture under the POPs Convention.

20 “(2) UNINTENTIONAL TRACE CONTAMI-
21 NANTS.—Prohibitions or restrictions included in
22 rules issued under subsection (e)(1), and the prohi-
23 bitions described in section 502(a), shall not apply
24 to any quantity of a POPs chemical substance or



1 mixture that occurs as an unintentional trace con-
2 taminant in a product or article.

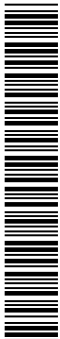
3 “(3) RESEARCH.—Prohibitions or restrictions
4 included in rules issued under subsection (e)(1), and
5 the prohibitions described in section 502(a), shall
6 not apply to any quantity of a POPs chemical sub-
7 stance or mixture that is used for laboratory scale
8 research or as a reference standard.

9 “(4) CONSTITUENT OF ARTICLE IN USE BE-
10 FORE PROHIBITION APPLIED.—Prohibitions or re-
11 strictions included in rules issued under subsection
12 (e)(1), and the prohibitions described in section
13 502(a), shall not apply to any quantity of a POPs
14 chemical substance or mixture that occurs as a con-
15 stituent of an article, if—

16 “(A) the article is manufactured or in use
17 on or before the date of entry into force for the
18 United States of the obligation applicable to the
19 POPs chemical substance or mixture; and

20 “(B) the United States has met any appli-
21 cable requirement of the POPs Convention to
22 notify the Secretariat of the POPs Convention
23 concerning the article.

24 “(5) CLOSED-SYSTEM SITE-LIMITED INTER-
25 MEDIATE EXEMPTION.—



1 “(A) IN GENERAL.—Subject to subpara-
2 graph (B), prohibitions or restrictions included
3 in rules issued under subsection (e)(1), and the
4 prohibitions described in section 502(a), shall
5 not apply to any quantity of a POPs chemical
6 substance or mixture that is manufactured and
7 used as a closed-system site-limited inter-
8 mediate that is chemically transformed in the
9 manufacture of other chemicals that do not ex-
10 hibit the characteristics of persistent organic
11 pollutants.

12 “(B) CONDITIONS.—Subparagraph (A) ap-
13 plies if, before the commencement of the manu-
14 facture or use under the POPs Convention, and
15 before each 10-year period thereafter—

16 “(i) any person that desires to invoke
17 the exemption provides to the Adminis-
18 trator information concerning—

19 “(I) the annual total quantity of
20 the POPs chemical substance or mix-
21 ture anticipated to be manufactured
22 or used, or a reasonable estimate of
23 the quantity; and

24 “(II) the nature of the closed
25 system site-limited process, including



1 the quantity of any nontransformed
2 and unintentional trace contamination
3 by the POPs chemical substance or
4 mixture that remains in the final
5 product; and

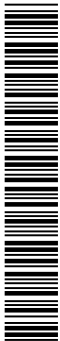
6 “(ii) notwithstanding any other provi-
7 sion of law, the Administrator—

8 “(I) determines, with the concur-
9 rence of the Secretary of State, that
10 the information provided under clause
11 (i) is complete and sufficient; and

12 “(II) transmits the information
13 to the Secretariat of the POPs Con-
14 vention.

15 “(C) TERMINATION OF EXEMPTION.—If,
16 at the termination of any exemption under sub-
17 paragraph (A), a particular closed-system site-
18 limited intermediate exemption is no longer au-
19 thorized for the United States under the POPs
20 Convention, no further exemption shall be avail-
21 able under subparagraph (A).

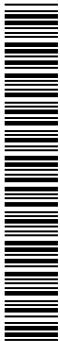
22 “(6) DISTRIBUTION IN COMMERCE FOR EXPORT
23 IF PRODUCTION OR USE-SPECIFIC EXEMPTION OR
24 ACCEPTABLE PURPOSE IS IN EFFECT.—



1 “(A) IN GENERAL.—Prohibitions or re-
2 strictions included in rules issued under sub-
3 section (e)(1), and the prohibitions described in
4 section 502(a), shall not apply to any distribu-
5 tion in commerce for export of any POPs chem-
6 ical substance or mixture for which a produc-
7 tion or use specific exemption under Annex A to
8 the POPs Convention available to the United
9 States is in effect, or for which a production or
10 use specific exemption or acceptable purpose
11 under Annex B to the POPs Convention avail-
12 able to the United States is in effect, unless—

13 “(i) if the export is for purposes of
14 disposal, the export does not comply with
15 an export condition described in subpara-
16 graph (B), as determined by the Adminis-
17 trator in consultation with the heads of
18 other interested Federal agencies; or

19 “(ii) the export does not comply with
20 an export condition described in subpara-
21 graph (C), or (D), as applicable, as deter-
22 mined by the Administrator in consultation
23 with the heads of other interested Federal
24 agencies and with the concurrence of the



1 Secretary of State and the United States
2 Trade Representative.

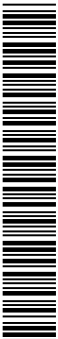
3 “(B) EXPORT FOR ENVIRONMENTALLY
4 SOUND DISPOSAL.—An export condition re-
5 ferred to in subparagraph (A)(i) is that the
6 POPs chemical substance or mixture is ex-
7 ported for the purpose of environmentally sound
8 disposal.

9 “(C) EXPORT TO PARTY WITH PERMISSION
10 TO USE.—An export condition referred to in
11 subparagraph (A)(ii) is that the POPs chemical
12 substance or mixture is exported to a party to
13 the POPs Convention that is permitted to use
14 the POPs chemical substance or mixture under
15 Annex A or B to the POPs Convention.

16 “(D) EXPORT TO NONPARTY THAT HAS
17 PROVIDED NONPARTY CERTIFICATION.—

18 “(i) IN GENERAL.—An export condi-
19 tion referred to in subparagraph (A)(ii) is
20 that the POPs chemical substance or mix-
21 ture is exported to an importing foreign
22 state that—

23 “(I) is not a party to the POPs
24 Convention with respect to the POPs
25 chemical substance or mixture; and



1 “(II) has provided an annual cer-
2 tification described in clause (ii) to
3 the Administrator.

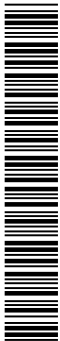
4 “(ii) COMMITMENTS BY IMPORTING
5 NONPARTY.—Consistent with the POPs
6 Convention, an annual nonparty certifi-
7 cation under clause (i) shall specify the in-
8 tended use of the POPs chemical substance
9 or mixture and state that, with respect to
10 the POPs chemical substance or mixture,
11 the importing nonparty is committed to—

12 “(I) protecting human health and
13 the environment by taking necessary
14 measures to minimize or prevent re-
15 leases;

16 “(II) complying with paragraph
17 1(d) of Article 6 of the POPs Conven-
18 tion; and

19 “(III) complying, to the extent
20 appropriate, with paragraph 2 of Part
21 II of Annex B to the POPs Conven-
22 tion.

23 “(iii) SUPPORTING DOCUMENTA-
24 TION.—Each nonparty certification shall
25 include any appropriate supporting docu-



1 mentation, such as legislation, regulatory
2 instruments, and administrative or policy
3 guidelines.

4 “(iv) SUBMISSION TO SECRETARIAT
5 OF POPS CONVENTION.—Not later than 60
6 days after the date of receipt of a complete
7 nonparty certification, the Administrator
8 shall submit a copy of the nonparty certifi-
9 cation to the Secretariat of the POPs Con-
10 vention.

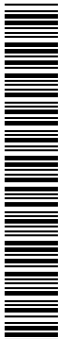
11 “(E) INFORMATION RELEVANT TO EX-
12 PORTS.—The Administrator, with the concur-
13 rence of the Secretary of State, shall make
14 available to the public, and keep current, a list
15 of—

16 “(i) parties to the POPs Convention;

17 “(ii) production and use specific ex-
18 emptions available to the United States;

19 “(iii) parties to the POPs Convention
20 that are permitted to use each POPs
21 chemical substance or mixture under
22 Annex A or B of the POPs Convention;
23 and

24 “(iv) chemical substances and mix-
25 tures for which no production or use spe-



1 cific exemptions are in effect for any party
2 to the POPs Convention.

3 “(7) EXPORT FOR ENVIRONMENTALLY SOUND
4 DISPOSAL IF NO PRODUCTION OR USE SPECIFIC EX-
5 EMPTION IN EFFECT.—Prohibitions or restrictions
6 included in rules issued under subsection (e)(1), and
7 the prohibitions described in section 502(a), shall
8 not apply to any distribution in commerce for export
9 for the purpose of environmentally sound disposal of
10 a POPs chemical substance or mixture listed in
11 Annex A to the POPs Convention for which no pro-
12 duction or use specific exemption is in effect for any
13 party to the POPs Convention.

14 “(8) IMPORTS FOR ENVIRONMENTALLY SOUND
15 DISPOSAL.—Prohibitions or restrictions included in
16 rules issued under subsection (e)(1), and the prohi-
17 bitions described in section 502(a), shall not apply
18 to a POPs chemical substance or mixture that is im-
19 ported for the purpose of environmentally sound dis-
20 posal.

21 “(9) WASTE.—Prohibitions or restrictions in-
22 cluded in rules issued under subsection (e)(1), and
23 the prohibitions described in section 502(a), shall
24 not apply to any quantity of a POPs chemical sub-
25 stance or mixture, including any article that consists



1 of, contains, or is contaminated with a POPs chem-
2 ical substance or mixture, that has become waste
3 that is otherwise regulated under Federal law.

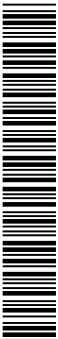
4 “(10) NO EFFECT ON OTHER PROHIBITIONS.—
5 Nothing in this subsection authorizes any manufac-
6 ture, processing, distribution in commerce for ex-
7 port, use, or disposal of a POPs chemical substance
8 or mixture that is prohibited under any other Act or
9 any other title of this Act.

10 “(g) EXEMPTIONS UNDER LRTAP POPs PRO-
11 TOCOL.—

12 “(1) IN GENERAL.—Prohibitions or restrictions
13 included in rules issued under subsection (e)(1), and
14 the prohibitions described in section 502(a), shall
15 not apply to—

16 “(A) any manufacture, processing, dis-
17 tribution in commerce for export, use, or dis-
18 posal of a LRTAP POPs chemical substance or
19 mixture that—

20 “(i) the Administrator determines,
21 through final rules promulgated under sub-
22 section (e)(1), with the concurrence of the
23 Secretary of State, is consistent with an al-
24 lowed restricted use or condition available



1 to the United States under Annex I or II
2 to the LRTAP POPs Protocol; and

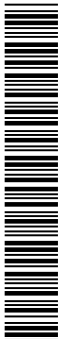
3 “(ii) the Administrator determines,
4 through final rules promulgated under sub-
5 section (e)(1), with the concurrence of the
6 Secretary of State, would, as a result, not
7 prevent the United States from complying
8 with obligations or potential obligations of
9 the United States with respect to that
10 chemical substance or mixture under the
11 LRTAP POPs Protocol;

12 “(B) any quantity of a LRTAP POPs
13 chemical substance or mixture that is used for
14 laboratory scale research or as a reference
15 standard;

16 “(C) any quantity of a LRTAP POPs
17 chemical substance or mixture that occurs as a
18 contaminant in a product;

19 “(D) any quantity of a LRTAP POPs
20 chemical substance or mixture that is in an ar-
21 ticle manufactured or in use on or before—

22 “(i) the implementation date for the
23 United States of any applicable obligation
24 under the LRTAP POPs Protocol; or



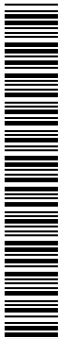
1 “(ii) in the case of any LRTAP POPs
2 chemical substance or mixture added to
3 any applicable Annex after the implemen-
4 tation date for the United States of the ap-
5 plicable obligation of the LRTAP POPs
6 Protocol, the implementation date in the
7 amendment to the LRTAP POPs Protocol
8 that makes the addition;

9 “(E) any quantity of a LRTAP POPs
10 chemical substance or mixture that occurs as a
11 site-limited chemical intermediate in the manu-
12 facture of 1 or more different substances and
13 that is subsequently chemically transformed;

14 “(F) the production of HCH, the use of
15 technical HCH (i.e., HCH mixed isomers) as an
16 intermediate in chemical manufacturing, and
17 the use of products in which 99 percent of the
18 HCH isomer is in the gamma form (i.e. lin-
19 dane, CAS:58-89-9) so long as such use is re-
20 stricted to—

21 “(i) seed treatment; and

22 “(ii) public health,
23 unless the Administrator, by rule, restricts the
24 application of this subparagraph consistent with



1 an amendment to the LRTAP POPs Protocol
2 specifically addressing HCH;

3 “(G) any quantity of a LRTAP POPs
4 chemical substance or mixture that has become
5 waste that is otherwise regulated under Federal
6 law;

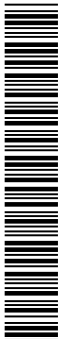
7 “(H) any distribution in commerce for ex-
8 port of a LRTAP POPs chemical substance or
9 mixture if the distribution in commerce for ex-
10 port is conducted in an environmentally sound
11 manner; or

12 “(I) any import of a LRTAP POPs chem-
13 ical substance or mixture if the import is con-
14 ducted in an environmentally sound manner.

15 “(2) EXEMPTIONS BY ADMINISTRATOR.—The
16 Administrator may grant an exemption from prohi-
17 bitions or restrictions included in rules issued under
18 subsection (e)(1), and the prohibitions described in
19 section 502(a), that the Administrator, in concur-
20 rence with the Secretary of State, determines is con-
21 sistent with the exemptions authorized under para-
22 graph 2 of Article 4 of the LRTAP POPs Protocol.

23 “(3) EXEMPTIONS BY PETITION.—

24 “(A) PETITIONS.—A person may petition
25 the Administrator for an exemption from prohi-



1 bitions or restrictions included in rules issued
2 under subsection (e)(1), and the prohibitions
3 described in section 502(a).

4 “(B) GRANT OR DENIAL OF PETITION.—
5 The Administrator, with the concurrence of the
6 Secretary of State, shall—

7 “(i) if the petition is authorized for
8 the United States under, and is otherwise
9 consistent with, the LRTAP POPs Pro-
10 tocol, grant the petition with such condi-
11 tions or limitations as are necessary to
12 meet any requirement of the LRTAP
13 POPs Protocol or any other provision of
14 law; or

15 “(ii) deny the petition.

16 “(4) PROVISION OF INFORMATION TO SECRE-
17 TARIAT.—If the Administrator grants an exemption
18 under paragraph (2) or (3), the Administrator, not
19 later than 90 days after the date on which the ex-
20 emption is granted, shall provide the Secretariat of
21 the LRTAP POPs Protocol with the information
22 specified in paragraph 3 of Article 4 of the LRTAP
23 POPs Protocol.

24 “(5) DISALLOWANCE OF EXEMPTION BY LRTAP
25 POPS PROTOCOL.—



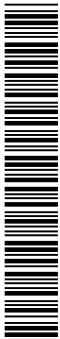
1 “(A) IN GENERAL.—If, after an exemption
2 has been granted under paragraph (2) or (3),
3 the exemption is no longer consistent with the
4 requirements of paragraph (2) or (3), the Ad-
5 ministrator shall withdraw the grant of such ex-
6 emption.

7 “(B) PUBLICATION OF NOTICE IN FED-
8 ERAL REGISTER.—The Administrator shall pub-
9 lish in the Federal Register a notice announcing
10 the withdrawal under subparagraph (A) of any
11 exemption.

12 “(6) NO EFFECT ON OTHER PROHIBITIONS.—
13 Nothing in this subsection authorizes any manufac-
14 ture, processing, distribution in commerce for ex-
15 port, use, or disposal of a LRTAP POPs chemical
16 substance or mixture that is prohibited under any
17 other Act or any other title of this Act.

18 “(h) HARMONIZATION OF POPS CONVENTION AND
19 LRTAP POPs PROTOCOL.—

20 “(1) IN GENERAL.—If a chemical substance or
21 mixture is both a POPs chemical substance or mix-
22 ture and a LRTAP POPs chemical substance or
23 mixture, in the case of a conflict between a provision
24 of subsection (f) applicable to a POPs chemical sub-
25 stance or mixture and a provision of subsection (g)



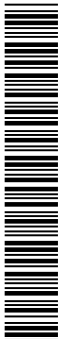
1 applicable to a LRTAP POPs chemical substance or
2 mixture, the more stringent provision shall apply, as
3 determined by the Administrator with the concu-
4 rence of the Secretary of State.

5 “(2) APPLICATION.—In the case of a chemical
6 substance or mixture described in paragraph (1),
7 subsections (f) and (g) shall be applied in such a
8 manner as to ensure that the United States is in
9 compliance with the POPs Convention and the
10 LRTAP POPs Protocol with respect to the chemical
11 substance or mixture.

12 “(i) ACTION BY THE ADMINISTRATOR UPON ADDI-
13 TION OF SOURCE CATEGORIES.—

14 “(1) APPLICABILITY.—If the Conference de-
15 cides to amend Annex C of the POPs Convention to
16 add to Part II new source categories not already
17 listed under section 112(c) of the Clean Air Act (42
18 U.S.C. 7412(c)) as major source categories, such de-
19 cision shall be published in the Federal Register.

20 “(2) CONFERENCE DECISION NOTICE.—A no-
21 tice of a Conference decision published in the Fed-
22 eral Register pursuant to paragraph (1) of this sub-
23 section shall identify the source category or cat-
24 egories that are the subject of the decision. The no-



1 tice shall include a summary of the Conference deci-
2 sion and request information and public comment.

3 “(j) ACTION PLANS.—

4 “(1) APPLICABILITY.—This subsection applies
5 if the United States—

6 “(A) develops an action plan under Article
7 5(a) of the POPs Convention;

8 “(B) undertakes a review of a submitted
9 action plan under Article 5(a)(v) of the POPs
10 Convention;

11 “(C) requires, under Article 5(c) of the
12 POPs Convention, substitute or modified mate-
13 rials, products, or processes; or

14 “(D) requires, under Article 5(d) of the
15 POPs Convention, the use of best available
16 techniques.

17 “(2) REQUIREMENT.—Not later than 90 days
18 after the date of an action described in paragraph
19 (1), the Administrator shall—

20 “(A) publish in the Federal Register a no-
21 tice of such action; and

22 “(B) provide opportunity for public com-
23 ment on any action plan, review of an action
24 plan, or requirement to be established pursuant
25 to Article 5(c) or (d) of the POPs Convention.



1 “(3) AUTHORITY TO IMPLEMENT ACTION
2 PLAN.—An action to implement an action plan de-
3 veloped under Article 5(a) of the POPs Convention
4 may be taken only to the extent that such action is
5 authorized under the statutes of the United States.

6 **“SEC. 504. AMENDMENTS AND CONSULTATION.**

7 “(a) CONSENT TO BE BOUND.—It is the sense of the
8 Congress that the United States shall consent to be bound
9 by an amendment to Annex A, B, or C of the POPs Con-
10 vention only after, pursuant to paragraph (4) of Article
11 25 of the POPs Convention, the United States has de-
12 clared that such amendment shall enter into force upon
13 ratification, acceptance, approval, or accession of the
14 United States to such amendment.

15 “(b) CONSULTATION.—

16 “(1) IN GENERAL.—The President shall, as ap-
17 propriate, consult with Congress before consenting
18 to bind the United States to an amendment to
19 Annex A, B, or C of the POPs Convention.

20 “(2) REPORTING.—The President shall provide
21 such other information relating to an amendment
22 described in paragraph (1) as the Congress may re-
23 quest in the fulfillment of its constitutional respon-
24 sibilities with respect to the protection of public
25 health and the environment.



1 “(3) CONGRESSIONAL OVERSIGHT.—Informa-
2 tion provided pursuant to paragraph (2) shall be
3 transmitted to the Committee on Energy and Com-
4 merce of the House of Representatives and to the
5 Committee on Environment and Public Works of the
6 Senate for appropriate action.

7 **“SEC. 505. INTERNATIONAL COOPERATION AND NOTICE OF**
8 **MEETINGS.**

9 “In cooperation with the Secretary of State and the
10 head of any other appropriate Federal agency, the Admin-
11 istrator shall—

12 “(1) participate and cooperate in any inter-
13 national efforts to develop improved research and
14 regulations on chemical substances and mixtures;

15 “(2) participate in technical cooperation and ca-
16 pacity building activities designed to support imple-
17 mentation of—

18 “(A) the POPs Convention;

19 “(B) the LRTAP POPs Protocol; and

20 “(C) the PIC Convention; and

21 “(3) publish in the Federal Register timely ad-
22 vance notice of the known schedule and agenda of
23 meetings on the POPs Convention, PIC Convention,
24 and LRTAP POPs Protocol, and their subsidiary



1 bodies, at which the United States will be rep-
2 resented.

3 **“SEC. 506. EFFECT OF REQUIREMENTS.**

4 “Any provision of this Act that establishes a require-
5 ment to comply with, or that is based on, a provision of
6 the POPs Convention, the LRTAP POPs Protocol, or the
7 PIC Convention shall be effective only to the extent that
8 the United States has consented to be bound by that provi-
9 sion.

10 **“SEC. 507. RULES OF CONSTRUCTION.**

11 “Nothing in this title—

12 “(1) shall be construed to require the United
13 States to register for a specific exemption available
14 to the United States under Annex A or B to the
15 POPs Convention or an acceptable purpose available
16 to the United States under Annex B to the POPs
17 Convention; or

18 “(2) affects the authority of the Administrator
19 to regulate a chemical substance or mixture under
20 any other law or any provision of this Act. ”.

21 **SEC. 3. POLYCHLORINATED BIPHENYLS (PCBS).**

22 Section 6(e) of the Toxic Substance Control Act (15
23 U.S.C. 2605(e)) is amended—

24 (1) by adding at the end of paragraph (2) the
25 following new subparagraph:



1 “(D) The Administrator may not, after the date of
2 enactment of this subparagraph, issue a rule authorizing
3 activities, that were not previously authorized, under sub-
4 paragraph (B) unless the activities authorized are con-
5 sistent with the exemptions described in section 503(f) or
6 (g), subject to section 503(h).”;

7 (2) by adding at the end of paragraph (3) the
8 following new subparagraph:

9 “(D) The Administrator may not, after the date of
10 enactment of this subparagraph, grant an exemption
11 under subparagraph (B) unless the manufacturing, proc-
12 essing, or distribution in commerce with respect to which
13 such exemption applies is consistent with the exemptions
14 described in section 503(f) or (g), subject to section
15 503(h).”; and

16 (3) by adding at the end the following new
17 paragraph:

18 “(6) Notwithstanding any other provision of this sub-
19 section, no person may distribute in commerce for export
20 equipment (including transformers, capacitors, and other
21 receptacles) containing greater than 0.05 liters of liquid
22 stock that contains greater than 0.005 percent poly-
23 chlorinated biphenyls, except for the purpose of environ-
24 mentally sound waste management to the extent that such



1 distribution in commerce for export is authorized by Fed-
2 eral law.”.

3 **SEC. 4. JUDICIAL REVIEW.**

4 Section 19 of the Toxic Substances Control Act (15
5 U.S.C. 2618) is amended—

6 (1) in subsection (a)(1)(A), by striking “or IV”
7 and inserting “, IV, or V”;

8 (2) in subsection (a)(3)(B), by striking “title
9 IV, the finding” and inserting “title IV or V, the
10 findings”;

11 (3) by striking “and” at the end of subpara-
12 graph (D) of subsection (a)(3);

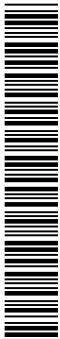
13 (4) by redesignating subparagraph (E) of sub-
14 section (a)(3) as subparagraph (F);

15 (5) by inserting after subparagraph (D) of sub-
16 section (a)(3) the following new subparagraph:

17 “(E) for rules promulgated under section
18 503(e), any written submission or other information
19 the Administrator receives pursuant to subsection
20 (a), (b), (c), or (d) of section 503; and”;

21 (6) in subsection (b), by inserting “(except a
22 rule promulgated pursuant to section 503)” after
23 “this section to review a rule”; and

24 (7) in subsection (c)(1)(B)(i), by striking “or
25 6(e)” and inserting “6(e), or 503(e)(1)”.



1 **SEC. 5. EXPORTS.**

2 Section 12 of the Toxic Substances Control Act (15
3 U.S.C. 2611) is amended—

4 (1) in subsection (a)(1), by striking “subsection
5 (b), this Act (other than section 8)” and inserting
6 “subsections (b) and (c), this Act (other than section
7 8 and title V)”; and

8 (2) by adding at the end the following new sub-
9 section:

10 “(c) EXPORTS UNDER THE PIC CONVENTION AND
11 POPs CONVENTION.—

12 “(1) EXPORT CONDITIONS OR RESTRICTIONS.—

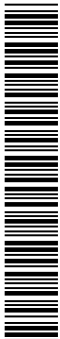
13 In the case of a chemical substance or mixture iden-
14 tified by the Administrator as listed on Annex III of
15 the PIC Convention in a notice issued under para-
16 graph (4)(C), any person that distributes in com-
17 merce for export the chemical substance or mixture
18 shall comply with any export conditions or restric-
19 tions identified by the Administrator in the notice.

20 “(2) PRE-EXPORT NOTICES.—

21 “(A) IN GENERAL.—

22 “(i) REQUIREMENT.—In the case of—

23 “(I) a chemical substance or mix-
24 ture that the Administrator deter-
25 mines to be banned or severely re-
26 stricted under paragraph (4)(A);



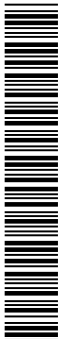
1 “(II) a chemical substance or
2 mixture identified by the Adminis-
3 trator in a notice issued under para-
4 graph (4)(C); or

5 “(III) a POPs chemical sub-
6 stance or mixture (for which a listing
7 under Annex A or Annex B of the
8 POPs Convention has entered into
9 force for the United States), the ex-
10 port of which is not prohibited by sec-
11 tion 502(a) or rules promulgated pur-
12 suant to section 503(e),

13 the exporter of the chemical substance or
14 mixture shall provide to the Administrator
15 notice of the intent of the exporter to ex-
16 port the chemical substance or mixture.

17 “(ii) TIMING OF NOTICE FOR CHEM-
18 ICAL SUBSTANCES OR MIXTURES THAT ARE
19 BANNED OR SEVERELY RESTRICTED.—

20 “(I) FIRST EXPORT.—In the case
21 of a first export that an exporter
22 makes from the United States to each
23 importing foreign state after the Ad-
24 ministrator issues a notice under
25 paragraph (4)(A), the exporter shall



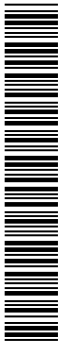
1 provide the notice required under
2 clause (i) so that the Administrator
3 receives the notice not earlier than 45
4 nor later than 15 calendar days before
5 the date of export.

6 “(II) SUBSEQUENT EXPORTS.—

7 In the case of subsequent exports to
8 the importing foreign state in cal-
9 endar years subsequent to the notifi-
10 cation provided under subclause (I),
11 the exporter shall provide the notice
12 so that the Administrator receives the
13 notice not earlier than 45 nor later
14 than 15 calendar days before the date
15 of the first export in such calendar
16 year.

17 “(iii) TIMING OF NOTICE FOR CHEM-
18 ICAL SUBSTANCES OR MIXTURES LISTED
19 UNDER THE PIC CONVENTION.—

20 “(I) FIRST EXPORT.—In the case
21 of a first export that an exporter
22 makes from the United States to each
23 importing foreign state after the Ad-
24 ministrator issues a notice under
25 paragraph (4)(C), the exporter shall

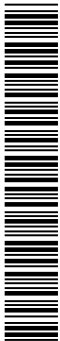


1 provide the notice required under
2 clause (i) so that the Administrator
3 receives the notice not earlier than 45
4 nor later than 15 calendar days before
5 the date of export.

6 “(II) SUBSEQUENT EXPORTS.—

7 In the case of subsequent exports by
8 the exporter to the importing foreign
9 state in calendar years subsequent to
10 the notification provided under sub-
11 clause (I), the exporter shall provide
12 the notice so that the Administrator
13 receives the notice not earlier than 45
14 nor later than 15 calendar days before
15 the date of the first such export.

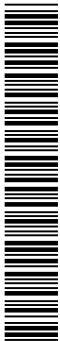
16 “(III) CHANGED CIRCUMSTANCES
17 MERITING NEW NOTICE.—If condi-
18 tions or restrictions imposed by the
19 importing foreign state change and
20 the Administrator notifies the public
21 of the change under paragraph
22 (4)(C), or if circumstances described
23 by the exporter in an earlier pre-ex-
24 port notice have substantially
25 changed, the exporter shall provide an



1 additional notice under this subpara-
2 graph so that the Administrator re-
3 ceives the notice not earlier than 45
4 nor later than 15 calendar days before
5 the date of export.

6 “(iv) TIMING OF PRE-EXPORT NOTICE
7 FOR THE EXPORT OF POPS CHEMICAL SUB-
8 STANCES OR MIXTURES WHICH ARE NOT
9 PROHIBITED UNDER THE POPS CONVEN-
10 TION.—

11 “(I) FIRST EXPORT.—In the case
12 of the first export that an exporter
13 makes from the United States to each
14 importing foreign state of a chemical
15 substance or mixture not prohibited
16 from being exported by the prohibition
17 in section 502(a) or rules promulgated
18 pursuant to section 503(e), the ex-
19 porter shall provide the notice under
20 this subparagraph so that the Admin-
21 istrator receives the notice not earlier
22 than 45 nor later than 15 calendar
23 days before the date of the first ex-
24 port.



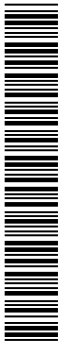
1 “(II) SUBSEQUENT EXPORTS.—

2 In the case of subsequent exports by
3 the exporter to the importing foreign
4 state in calendar years subsequent to
5 the notification provided under sub-
6 clause (I), the exporter shall provide
7 the notice so that the Administrator
8 receives the notice not earlier than 45
9 nor later than 15 calendar days before
10 the date of the first such subsequent
11 export in such calendar year.

12 “(III) CHANGED CIRCUMSTANCES
13 MERITING NEW NOTICE.—If the cir-
14 cumstances described by the exporter
15 in an earlier pre-export notice have
16 substantially changed, the exporter
17 shall provide an additional notice
18 under this subparagraph so that the
19 Administrator receives the notice not
20 earlier than 45 nor later than 15 cal-
21 endar days before the date of export.

22 “(B) ALTERNATE TIME FRAME FOR NO-
23 TICES.—

24 “(i) DISCRETIONARY ALTERNATE
25 TIME FRAMES.—Notwithstanding clauses



1 (ii) and (iii) of subparagraph (A), the Ad-
2 ministrator may set an alternate time
3 frame for providing notices under this sub-
4 paragraph if the Administrator determines
5 that such alternate time frame is appro-
6 priate and the Administrator is able, with-
7 in such alternate time frame, to administer
8 notice activities in accordance with the PIC
9 Convention and comply with the POPs
10 Convention.

11 “(ii) MANDATORY REVIEW OF STATU-
12 TORY TIME FRAMES AND PROCESSES.—
13 Not later than 18 months after entry into
14 force for the United States of the PIC
15 Convention, and not later than 18 months
16 after entry into force for the United States
17 of the POPs Convention, the Adminis-
18 trator shall review the statutory time
19 frames for receipt of pre-export notices
20 under this subparagraph and the Adminis-
21 trator’s processing of such notices. In such
22 review, the Administrator, with the concur-
23 rence of the Secretary of State, shall con-
24 sider whether amendments to the time
25 frames and modifications to the processes



1 would be appropriate to administer notice
2 activities in accordance with the PIC Con-
3 vention and to comply with the POPs Con-
4 vention.

5 “(C) CONTENT OF PRE-EXPORT NO-
6 TICES.—

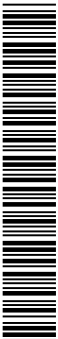
7 “(i) NOTICES FOR BANNED OR SE-
8 VERELY RESTRICTED CHEMICAL SUB-
9 STANCE OR MIXTURE.—A notice under
10 subparagraph (A)(ii) with respect to a
11 chemical substance or mixture that is
12 banned or severely restricted shall include
13 for each export anticipated during that cal-
14 endar year—

15 “(I) the name and address of the
16 exporter;

17 “(II) the name and address of
18 the appropriate designated national
19 authority of the United States;

20 “(III) the name and address of
21 the appropriate designated national
22 authority of the importing foreign
23 state, if available;

24 “(IV) the name and address of
25 the importer;



1 “(V) the name of the chemical
2 substance or mixture for which the
3 notice is required;

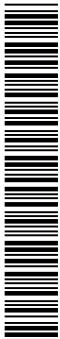
4 “(VI) the expected date of ex-
5 port;

6 “(VII) information relating to
7 the foreseen uses of the chemical sub-
8 stance or mixture, if known, in the
9 importing foreign state;

10 “(VIII) information on pre-
11 cautionary measures, consistent with
12 the ban or severe restriction applica-
13 ble to the United States under the
14 PIC Convention, to reduce exposure
15 to, and emission of, the chemical sub-
16 stance or mixture;

17 “(IX) information relating to the
18 concentration of the chemical sub-
19 stance or mixture; and

20 “(X) any other information that
21 the Administrator determines, in a
22 general order published in the Federal
23 Register, is required by Annex V of
24 the PIC Convention to be included in
25 such a notice.



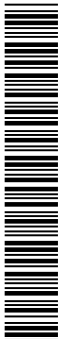
1 “(ii) NOTICES FOR CHEMICAL SUB-
2 STANCES OR MIXTURES LISTED ON ANNEX
3 III OF THE PIC CONVENTION.—A notice
4 under subparagraph (A)(ii) with respect to
5 a chemical substance or mixture listed on
6 Annex III of the PIC Convention shall in-
7 clude for each export anticipated during
8 that calendar year—

9 “(I) all of the information re-
10 quired to be included under clause (i);

11 “(II) any information relating to
12 export conditions or restrictions iden-
13 tified by the Administrator in the no-
14 tice issued under paragraph (4)(C)
15 with respect to the chemical substance
16 or mixture;

17 “(III) a general description of
18 the manner in which the export com-
19 plies with those conditions; and

20 “(IV) any other information that
21 the Administrator determines by gen-
22 eral order published in the Federal
23 Register to be necessary for effective
24 enforcement of the export conditions



1 or restrictions applicable to the chem-
2 ical substance or mixture.

3 “(iii) NOTICES FOR CHEMICAL SUB-
4 STANCE OR MIXTURE THE EXPORT OF
5 WHICH IS NOT PROHIBITED UNDER THE
6 POPS CONVENTION.—A notice submitted to
7 the Administrator under subparagraph
8 (A)(iii) shall include—

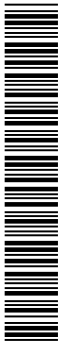
9 “(I) the name and address of the
10 exporter;

11 “(II) the name and address of
12 the importer;

13 “(III) a name of the POPs chem-
14 ical substance or mixture;

15 “(IV) a general description of
16 how the export is in accordance with
17 the provisions related to export in sec-
18 tion 503(f)(6) or (7); and

19 “(V) such other information as
20 the Administrator determines by gen-
21 eral order published in the Federal
22 Register to be necessary for enforce-
23 ment of the export-related obligations
24 of the POPs Convention applicable to



1 the United States for that chemical
2 substance or mixture.

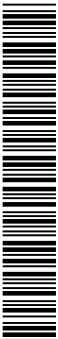
3 “(D) PRE-EXPORT NOTICES ACCOM-
4 PANYING EACH EXPORT.—An exporter shall en-
5 sure that a copy of the most recent applicable
6 pre-export notice provided to the Administrator
7 under this subsection accompanies each ship-
8 ment for export and is available for inspection
9 upon export for—

10 “(i) any chemical substance or mix-
11 ture that the Administrator has identified
12 under paragraph (4)(C) as being listed on
13 Annex III of the PIC Convention; or

14 “(ii) any POPs chemical substance or
15 mixture that is exported.

16 “(E) RETENTION OF PRE-EXPORT NO-
17 TICES.—An exporter required to provide a no-
18 tice under subparagraph (A) shall maintain a
19 copy of the notice and other documents used to
20 generate the notice and have it readily available
21 for a period of no less than 3 years beginning
22 on the date on which the notice is provided.

23 “(3) LABELING AND DOCUMENT REQUIRE-
24 MENTS.—



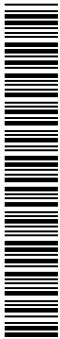
1 “(A) IN GENERAL.—In the case of any
2 chemical substance or mixture that is the sub-
3 ject of a notice issued under subparagraph (A)
4 or (C) of paragraph (4) and that is manufac-
5 tured, processed, or distributed in commerce,
6 the chemical substance or mixture shall, as re-
7 quired by the PIC Convention—

8 “(i) bear labeling information relating
9 to risks or hazards to human health or the
10 environment; and

11 “(ii) be accompanied by shipping doc-
12 uments that include any relevant safety
13 data sheets on the chemical substance or
14 mixture.

15 “(B) CUSTOM CODES.—A chemical sub-
16 stance or mixture that is the subject of a notice
17 issued under paragraph (4)(C) and that is dis-
18 tributed or sold for export shall be accompanied
19 by shipping documents that bear, at a min-
20 imum, any appropriate harmonized system cus-
21 toms codes assigned by the World Customs Or-
22 ganization.

23 “(4) NOTICE REQUIREMENTS AND EXEMP-
24 TION.—



1 “(A) DETERMINATION WHETHER CHEM-
2 ICAL SUBSTANCE OR MIXTURE IS BANNED OR
3 SEVERELY RESTRICTED.—

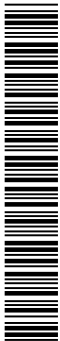
4 “(i) IN GENERAL.—The Adminis-
5 trator, with the concurrence of the Sec-
6 retary of State, shall determine whether a
7 chemical substance or mixture is banned or
8 severely restricted within the United States
9 (as those terms are defined by the PIC
10 Convention).

11 “(ii) NOTICE OF DETERMINATIONS.—
12 Notwithstanding any other provision of
13 law, the Administrator shall issue to the
14 Secretariat of the PIC Convention and the
15 public a notice of each determination
16 under clause (i) that includes—

17 “(I) in the case of a notice to the
18 Secretariat of the PIC Convention,
19 the information specified in Annex I
20 to the PIC Convention; and

21 “(II) in the case of a notice to
22 the public, at a minimum, a summary
23 of that information.

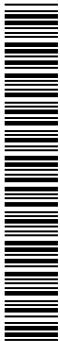
24 “(B) NOTICE TO FOREIGN COUNTRIES.—



1 “(i) IN GENERAL.—Notwithstanding
2 any other provision of law, with respect to
3 a chemical substance or mixture that is
4 banned or severely restricted under para-
5 graph (2)(A)(ii), the Administrator shall
6 provide to the designated authority of the
7 importing foreign state a copy of the
8 preexport notice it determines represents
9 the first export to the importing foreign
10 state after a determination under subpara-
11 graph (A) that the chemical substance or
12 mixture is banned or severely restricted
13 and, thereafter, the preexport notice it de-
14 termines represents the first export in each
15 calendar year to the importing foreign
16 state.

17 “(ii) NONIDENTIFIED DESIGNATED
18 NATIONAL AUTHORITY.—In a case in
19 which a designated national authority has
20 not been identified, the Administrator shall
21 provide the notice of intent to export to
22 any other appropriate official of the im-
23 porting foreign state, as identified by the
24 Administrator.

25 “(C) NOTICE TO PUBLIC.—



1 “(i) IN GENERAL.—The Adminis-
2 trator, with the concurrence of the Sec-
3 retary of State, shall issue a notice to in-
4 form the public of—

5 “(I) any chemical substance or
6 mixture that is listed on Annex III to
7 the PIC Convention and the condi-
8 tions and restrictions applicable there-
9 to; and

10 “(II) any condition or restriction
11 of an importing foreign state that is
12 applicable to the import, in accord-
13 ance with the PIC Convention, of the
14 chemical substance or mixture.

15 “(ii) TIMING.—A notice required
16 under clause (i) shall be issued not later
17 than 90 days after, and any conditions or
18 restrictions described in clause (i)(II) shall
19 take effect not later than 180 days after,
20 the date of receipt of a notice, from the
21 Secretariat of the PIC Convention, that—

22 “(I) transmits import decisions of
23 the parties to the PIC Convention; or

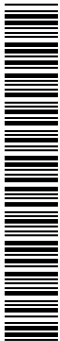


1 “(II) provides notice of the fail-
2 ure of the parties to provide import
3 decisions.

4 “(iii) TREATMENT OF CONDITIONS
5 AND RESTRICTIONS.—A condition or re-
6 striction identified by a notice required
7 under clause (i) shall be considered to be
8 an export condition or restriction for the
9 purpose of paragraph (1).

10 “(D) NOTICE OF EXEMPTION.—The Ad-
11 ministrator may issue a notice exempting any
12 chemical substance or mixture from the require-
13 ments of paragraphs (1) through (3), and sub-
14 paragraph (B) of this paragraph, if the Admin-
15 istrator determines, with the concurrence of the
16 Secretary of State, that the exemption would be
17 consistent with the PIC Convention or the
18 POPs Convention.

19 “(5) CONSOLIDATION OF NOTICES.—With re-
20 spect to any pre-export notice requirement under
21 this subsection, the Administrator shall allow any
22 such requirement, and any pre-export notice require-
23 ment in other provisions of this Act, to be satisfied
24 by a single notice.



1 “(6) TRACE CONCENTRATIONS.—The Adminis-
2 trator shall allow the export of trace concentrations
3 of otherwise restricted or banned chemicals without
4 notification if the Administrator finds that the ex-
5 port of such concentrations without notification does
6 not pose a significant threat to human health or the
7 environment and is not inconsistent with the PIC
8 Convention, the POPs Convention, and the LRTAP
9 POPs Protocol.”.

10 **SEC. 6. CONFORMING AMENDMENTS.**

11 (a) The table of contents in section 1 of the Toxic
12 Substances Control Act is amended by adding at the end
13 the following:

“TITLE V—IMPLEMENTATION OF INTERNATIONAL AGREEMENTS

“Sec. 501. Definitions

“Sec. 502. Implementation of POPs Convention and LRTAP POPs Protocol

“Sec. 503. Notice, information, rulemaking, and exemptions

“Sec. 504. Amendments and consultation

“Sec. 505. International cooperation and notice of meetings

“Sec. 506. Effect of requirements”.

14 (b) Section 11 of the Toxic Substances Control Act
15 (15 U.S.C. 2610) is amended in subsections (a) and (b)
16 by striking “title IV” each place it appears and inserting
17 “title IV or title V”.

18 (c) Section 15 of the Toxic Substances Control Act
19 (15 U.S.C. 2614) is amended—

20 (1) in paragraph (1), by inserting “or any re-
21 quirement prescribed under title V or rule or order



1 promulgated or issued under title V” after “under
2 title II”; and

3 (2) in paragraph (2), by inserting “, or any re-
4 quirement prescribed under title V or rule or order
5 promulgated or issued under title V” after “under
6 section 5 or 7”.

7 (d) Section 17 of the Toxic Substances Control Act
8 (15 U.S.C. 2616) is amended—

9 (1) in subsection (a)(1)—

10 (A) by striking subparagraph (B) and in-
11 serting the following:

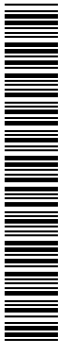
12 “(B) restrain any person from taking any ac-
13 tion prohibited by section 5 or 6, or title IV or V
14 (or a rule or order issued under any of those sec-
15 tions or titles);”;

16 (B) in subparagraphs (A) and (C), by
17 striking the comma at the end and inserting a
18 semicolon; and

19 (C) in subparagraph (D)—

20 (i) by striking “title IV manufac-
21 tured” and inserting “title IV or V manu-
22 factured”; and

23 (ii) by striking “section 5, 6, or title
24 IV” each place it appears and inserting
25 “section 5 or 6, or title IV or V”; and



1 (2) in the first sentence of subsection (b), by in-
2 serting “or V” after “title IV”.

3 (e) Section 18 of the Toxic Substances Control Act
4 (15 U.S.C. 2617) is amended—

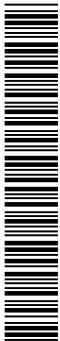
5 (1) by amending subsection (a)(2)(B) to read
6 as follows:

7 “(B) if—

8 “(i) the Administrator prescribes a rule or
9 order under section 5 or 6 (other than a rule
10 imposing a requirement described in subsection
11 (a)(6) of section 6) which is applicable to a
12 chemical substance or mixture, and which is de-
13 signed to protect against a risk of injury to
14 health or the environment associated with such
15 substance or mixture; or

16 “(ii) the United States has consented to be
17 bound under the POPs Convention or LRTAP
18 POPs Protocol with respect to a POPs chemical
19 substance or mixture or LRTAP POPs chem-
20 ical substance or mixture (as defined in section
21 501),

22 no State or political subdivision of a State may,
23 after the effective date of such rule or order or con-
24 sent, establish or continue in effect any requirement,
25 which is applicable to such substance or mixture, or



1 an article containing such substance or mixture, and
2 which is designed to protect against a risk of injury
3 to health or the environment associated with such
4 substance or mixture that the rule, order, or consent
5 is designed to protect against, unless such require-
6 ment is identical to the requirement prescribed by
7 the Administrator, is adopted under the authority of
8 the Clean Air Act or any other Federal law, or pro-
9 hibits the use of such substance or mixture in such
10 State or political subdivision (other than its use in
11 the manufacture or processing of other substances
12 or mixtures).”; and

13 (2) by adding at the end the following new sub-
14 section:

15 “(c) SAVINGS.—Nothing in this section shall be con-
16 strued to authorize a State to act in a manner that causes
17 the United States to be out of compliance with its obliga-
18 tions under the POPs Convention or LRTAP POPs Pro-
19 tocol. For purposes of this section, the terms ‘POPs Con-
20 vention’ and ‘LRTAP POPs Protocol’ have the meaning
21 given those terms in section 501.”.

